

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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MALIBU MEDIA, LLC,

Plaintiff(s),

Case No. 1:12cv617

-vs-

Hon. Robert J. Jonker

JEFFREY ROY,

Defendant(s).

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**ORDER OF REFERRAL TO STANDARD TRACK CASE EVALUATION**

Pursuant to W.D. Mich. LCivR 16.5(b)(i)(F)(2), this matter is hereby submitted to standard track case evaluation. The procedures are set forth in Local Civil Rule 16.5 and the Case Evaluation Program Description.<sup>1</sup>

**IT IS ORDERED** that:

1. The case evaluation panel shall be selected by the ADR Administrator as set forth in W.D. Mich. LCivR 16.5(b)(i)(A) with notice to plaintiff's counsel.

2. Plaintiff's counsel shall coordinate a specific date, time, and place for the case evaluation. The date set shall be no later than **August 31, 2013**. Plaintiff's counsel shall file with the ADR Administrator<sup>2</sup> and serve upon all parties the notice of hearing.

3. Within ten (10) calendar days after the mailing of the notice of the date of the hearing, each plaintiff and each defendant shall pay each case evaluator the sum of One Hundred (\$100.00) Dollars as set forth in W.D. Mich. LCivR 16.5(b)(i)(B).

4. At least fourteen (14) days prior to the date of the hearing, all documents on questions of liability and damages shall be submitted to each case evaluator and to opposing counsel, with

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<sup>1</sup>Available on the court's website at [www.miwd.uscourts.gov](http://www.miwd.uscourts.gov).

<sup>2</sup>Lauren Packard, 399 Federal Bldg., 110 Michigan St., NE, Grand Rapids, MI 49503 or email at: [Lauren\\_Packard@miwd.uscourts.gov](mailto:Lauren_Packard@miwd.uscourts.gov).

proof of service to the ADR Administrator. Failure to submit the documents or the proof of service within the time designated shall result in costs of One Hundred Fifty (\$150.00) Dollars being assessed, payable by separate checks in the amount of Fifty (\$50.00) Dollars to each of the attorneys on the panel to be submitted with each brief. The proof of service shall include a statement that costs of Fifty (\$50.00) Dollars per case evaluator were delivered to each case evaluator with the brief.

5. The panel's evaluation, which shall include all fees, costs and interest, shall be submitted in writing to counsel for each party at the close of the hearing. The original evaluation shall be forwarded to the ADR Administrator. This document may not be electronically filed. If the evaluation is not unanimous, the evaluation shall so indicate. Mich. Comp. Laws § 600.4963(1).

6. Written acceptance or rejection of the panel's evaluation shall be submitted to the ADR Administrator within 28 days after service of the panel's evaluation. There shall be no disclosure of a party's acceptance or rejection until expiration of the 28 days or until all parties have responded with an acceptance or rejection. Upon receipt of responses from all parties, the ADR Administrator shall send a notice indicating each counsel's acceptance or rejection of the evaluation. The failure of a party to file a written acceptance or rejection within twenty-eight (28) days constitutes a rejection. If the evaluation is rejected, it shall be sealed and shall be exempt from W.D. Mich. LCivR 10.6(c).

7. If the panel's evaluation is accepted in writing by all parties, judgment will be entered in accordance with the evaluation unless the amount of the award is paid within 28 days after notification of the acceptances, in which case the court will dismiss the case with prejudice.

8. If any party rejects the panel's evaluation, this case shall be ready to proceed to trial on March 18, 2014.

9. Adjournment of a case evaluation hearing may be had only by unanimous stipulation.

10. Pursuant to Fed. R. Evid. 408, all information disclosed during the case evaluation hearing, including the conduct and demeanor of the parties and their counsel during the proceedings, shall remain confidential, and shall not be disclosed to any other party nor to this court, without consent of the party disclosing the information. The Case Evaluators shall not be called as witnesses nor may the Case Evaluators' records be subpoenaed or used as evidence.

All parties to this action are notified that all phases of case evaluation will proceed in accordance with W.D. Mich. LCivR 16.5 unless those procedures are modified by order of the court on motion of a party for good cause shown, or by motion of the court. If any such modification is ordered, all parties shall receive notice of that modification.

/s/Robert J. Jonker  
Robert J. Jonker  
United States District Judge

Dated: February 1, 2013